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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,573	10/31/2003	Miha Klinar	3135-032130	8245

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THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/713,573

Applicant(s)

KLINAR, MIHA

Examiner

Steven L. Weinstein

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/10/04</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1761

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Clarkson (5,318,786).

In regard to claim 13, Clarkson discloses a device for providing a drink from extracts, comprising at least one container for an extractable mixture, which is permeable to liquid and which comprises two container parts (#25 and #25') pivotally connected to each other (e.g., fig. 5), a cover connected to the container, which cover comprises two cover parts (#22 and #22'), which are also pivotally connected to each other (e.g., fig. 5), and wherein each cover part is pivotally connected to a separate container part, and wherein the container is connected to the cover such that the device is pivotable between a folded out active position in which a substantial part of the container lies at a distance from the cover (e.g., fig 5) and wherein the device is capable of being positioned in a folded up, non-active position, in which the container is at least substantially enclosed by the cover. That is, like applicants disclosed device, the container of Clarkson can be inverted and pivoted back between the cover portions so that the cover portions substantially enclose the container. This is all claim 13 positively recites. In regard to claim 14, the recited connections are disclosed by Clarkson. In regard to claim 15, Clarkson, of course, in disclosing , for example, plastic coated net-weave fabric filter bags for the container, discloses flexible material. In regard to claim

Art Unit: 1761

17, Clarkson discloses at least one of the container parts has an incision extending to a side of the cover part for the recited purpose. In regard to claim 18, Clarkson also discloses the incision can include at least partial hook-like form (e.g. col. 4, para. 5 – slots may be narrow cuts, including slits, or a combination of a slot, or notch, and slit). In regard to claim 19, the filter bags of Clarkson are inherently at least non-permeable to the mixture, which is coffee or tea. That is, after all, the function of a filter bag. The filter bag allows water to enter and extract to exit, while retaining the extracted coffee or tea. In regard to claim 20, the claim does not recite the nature of the phrase “connected releasably”. Since Clarkson discloses securing the container to the cover, the container could be released from the cover by using force against the seal. This is all claim 20 recites. In regard to claims 22 and 23, The Cover of Clarkson reads on the cover of claim 22 and the container of Clarkson reads on the container of claim 23.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clarkson in view of Cleaves (2,291,278), Karell (5,937,737), Travers (4,875,574), Christie et al (5,478,581), Dodd (4,215,628), and Major (3,387,978).

Claim 21 recites that the container is provided with coupling means for co-action with counter-coupling means forming part of the cover. As disclosed, the coupling can be of various conventional forms such as strips with channels, adhesive connections,

Art Unit: 1761

Velcro, mutual mechanical fastening, and a clamping connection. As evidenced by Cleaves, Karell, Travers, Christie et al, Dodd and Major, the art is replete with conventional expedients to connect a flexible bag or bags to a holder or holder/cover. Theses include, for example, adhesive, staples (which is a mutual mechanical fastening), clamps, slits (on the support element) and bag extensions, which are all shown by Cleaves. To modify Clarkson and substitute one conventional coupling system for another conventional system for its art recognized and applicants intended function would therefore have been obvious.

The remainder of the references cited on the PTO 892 form are cited as pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Steve Weinstein*  
**STEVE WEINSTEIN** 1261  
**PRIMARY EXAMINER**  
9/28/06